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Millions of Oklahoma Tax Dollars Go Up in Smoke

Washington, D.C. – Poorly-drafted state tobacco compacts with Indian tribes make federal enforcement impossible, the Oklahoma Tax Commission was advised today by the U.S. Department of Alcohol, Tobacco and Firearms (ATF). The state had asked ATF for help in trying to recover millions of dollars Oklahoma is losing each month under recent tobacco compacts with Indian tribes.

The compacts were negotiated by Gov. Brad Henry and now-State Treasurer Scott Meacham.

Congressman Ernest Istook had encouraged ATF to work with the state, if possible, after the state requested enforcement aid in a September 12th letter. After investigating the matter, the ATF concluded that the compacts are unenforceable by federal officials, because they create a two-tiered system that permits some tribes to sell cigarettes with only a six-cent revenue stamp, while other vendors must pay over a dollar per pack for revenue stamps.

Under federal law, only when cigarettes bear no revenue stamp at all do they become contraband which then can be seized by federal authorities. ATF officials advised Istook that they've never seen a two-tiered system before, but that as long as cigarettes bear at least a six-cent revenue stamp, they cannot be seized under federal law.

“When Oklahoma’s voters decided to raise the tobacco tax, they didn’t know the governor and Mr. Meacham would create a huge loophole like this. Nor did anybody guess that they wouldn’t negotiate an agreed way to enforce state law with tribal sellers,” Istook said.

“I encouraged the ATF to look for any way possible that we could help, but they concluded that the thing has been too messed-up. The blame cannot be shifted to the federal level; the problem is that the state negotiators did a lousy job and did not protect Oklahoma’s interests,” Istook said. **“Now the Governor and State Treasurer should accept responsibility to fix the problem they created, so the state doesn’t continue to lose millions of dollars each month.”**

Istook’s interest in the issue is not new. Several years ago, he succeeded in getting federal help to enforce Oklahoma tax laws at tribal smoke shops, before the current faulty compacts were created.

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